



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCC/150187

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 21, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 23, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ Core Plan was correctly discontinued because of income in excess of income limits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Paul Frederickson  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's BadgerCare+ Core Plan case was reviewed in June 2013. Petitioner is working through Premium Home Health Care. His employer indicates that he is paid \$7.90 per hour before overtime, works 56 hours per week and is paid bi-weekly. He is paid time and half for hours in excess of 40 per

week - \$11.85 per hour. Thus his base is \$1264.00 per month (7.9 x 40 x4). But overtime of 16 hours per week adds \$758.40 (16.4.11.85) to that to bring total gross monthly income to \$2022.40. State wage records confirm that Petitioner's income has been more than \$2000.00 for all of 2013.

3. Given Petitioner's income the agency discontinued Petitioner's BadgerCare+ Core.

### **DISCUSSION**

The only issue here with respect to the BadgerCare+ core plan eligibility for Petitioner is income. The income limit for BadgerCare+ Core plan eligibility is 200% of the Federal Poverty Level (FPL). *BadgerCare+ Eligibility Handbook (BEH)*, §43.2 & §43.7.2. For a group of one that is \$1915.00 per month. *BEH*, §50.1. In determining income, gross income is counted, not net. *BEH*, §16.4. The income amounts noted above were not disputed. Because Petitioner's income is in excess of 200% of the FPL for a group of one the agency correctly discontinued his BadgerCare+ Core.

### **CONCLUSIONS OF LAW**

That the evidence does demonstrate that Petitioner was correctly discontinued because of income in excess BadgerCare+ Core income limits.

**THEREFORE, it is**

**ORDERED**

That this case is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson

Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 29th day of August, 2013

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 29, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability